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Calendar No. 36

106TH CONGRESS
1ST SESSION

S. 494

[Report No. 106–13]

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 1999

Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. MACK, Mr. BREAUX, Mr. KERREY, Ms. MIKULSKI, Mr. BRYAN, Mr. HOLLINGS, Mr. INOUYE, Mr. HARKIN, Mr. BAYH, Mr. ROBB, Mr. MURKOWSKI, Mr. BAUCUS, Mr. CONRAD, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on Finance

MARCH 10, 1999

Reported by Mr. ROTH, without amendment

A BILL

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nursing Home Residential Security Act of 1999".

SEC. 2. RESTRICTIONS ON TRANSFERS OR DISCHARGES OF NURSING FACILITY RESIDENTS IN THE CASE OF VOLUNTARY WITHDRAWAL FROM PARTICIPATION UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1919(c)(2) of the Social Security Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

"(F) CONTINUING RIGHTS IN CASE OF VOLUNTARY WITHDRAWAL FROM PARTICIPATION.—

"(i) IN GENERAL.—In the case of a nursing facility that voluntarily withdraws from participation in a State plan under this title but continues to provide services of the type provided by nursing facilities—

"(I) the facility's voluntary withdrawal from participation is not an acceptable basis for the transfer or discharge of residents of the facility who were residing in the facility on the day before the effective date of the withdrawal (including those residents

who were not entitled to medical assistance as of such day);

"(II) the provisions of this section continue to apply to such residents until the date of their discharge from the facility; and

"(III) in the case of each individual who begins residence in the facility after the effective date of such withdrawal, the facility shall provide notice orally and in a prominent manner in writing on a separate page at the time the individual begins residence of the information described in clause (ii) and shall obtain from each such individual at such time an acknowledgment of receipt of such information that is in writing, signed by the individual, and separate from other documents signed by such individual.

Nothing in this subparagraph shall be construed as affecting any requirement of a participation agreement that a nursing facility provide advance notice to the State

or the Secretary, or both, of its intention to terminate the agreement.

"(ii) INFORMATION FOR NEW RESIDENTS.—The information described in this clause for a resident is the following:

"(I) The facility is not participating in the program under this title with respect to that resident.

"(II) The facility may transfer or discharge the resident from the facility at such time as the resident is unable to pay the charges of the facility, even though the resident may have become eligible for medical assistance for nursing facility services under this title.

"(iii) CONTINUATION OF PAYMENTS AND OVERSIGHT AUTHORITY.—Notwithstanding any other provision of this title, with respect to the residents described in clause (i)(I), a participation agreement of a facility described in clause (i) is deemed to continue in effect under such plan after the effective date of the facility's voluntary

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withdrawal from participation under the State plan for purposes of—

"(I) receiving payments under the State plan for nursing facility services provided to such residents;

"(II) maintaining compliance with all applicable requirements of this title; and

"(III) continuing to apply the survey, certification, and enforcement authority provided under subsections (g) and (h) (including involuntary termination of a participation agreement deemed continued under this clause).

"(iv) NO APPLICATION TO NEW RESIDENTS.—This paragraph (other than subclause (III) of clause (i)) shall not apply to an individual who begins residence in a facility on or after the effective date of the withdrawal from participation under this subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to voluntary withdrawals from participation occurring on or after the date of the enactment of this Act.

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